

**Illinois Department of Revenue  
Regulations**

<b>Title 86 Part 535 Section 535.150 Assessments/Penalties</b>
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**TITLE 86: REVENUE**

**PART 535  
NURSING HOME GRANT ASSISTANCE ACT**

**Section 535.150 Assessments/Penalties**

Section 35(c) of the Act incorporates by reference certain provisions of the Retailers' Occupation Tax Act. (Ill. Rev. Stat. 1991, ch. 120, pars. 440, et seq.) [35 ILCS 120/1, et seq.] (the "ROTA") The Act authorizes the Department to issue notices assessing liability for amounts of fees which are due and owing the Department and for penalties that are imposed and become due under the Act.

- a) As soon as practicable after a Certification is filed, the Department shall examine such Certification and shall, if necessary, correct such Certification according to its best judgment and information. Except in the case of a fraudulent Certification, no notice of assessment for a deficiency resulting from a correction made by the Department shall be issued on or after 3 years after the later of the date the Certification was due or the date the Certification was filed.
- b) In case any distribution agent fails to file a Certification when and as required by the Act, the Department shall determine the amount of fees due from the distribution agent according to the Department's best judgement and information. In such a case, and in case any distribution agent files a Certification at the time required by the Act, but fails to pay the fees, or any part thereof, when due, the Department shall issue a notice of assessment for the amount of the deficiency resulting from the failure to pay the amount determined by the Department to be due, or such amount as was reported in the Certification but for which payment was not made to the Department by the distribution agent. Section 35(c)(2) incorporates Section 5 of the ROTA, except that the penalty amounts provided for in the Act shall control. Accordingly, a notice of assessment under this subsection may include an amount equivalent to the underpayment of fees due from a distribution agent or a qualified distribution agent and, in addition to that amount, an amount equal to 100% of the underpayment. Except in case of failure to file a Certification, or with the consent of the person to whom the notice of assessment is to be issued, no notice of assessment shall be issued on and after each July 1 and January 1 covering fees due during any month or period of time more than 3 years prior to such July 1 and January 1, respectively.
- c) An amount of penalty imposed pursuant to Section 35(a) of the Act, and an amount of penalty imposed pursuant to Section 35(b) of the Act may be included in a notice of assessment issued to a qualified distribution agent. A notice of assessment including an amount of penalty imposed pursuant to Section 35(a) or Section 35(b) of the Act may be issued at any time.

- d) An amount of penalty imposed pursuant to Section 35(c)(4) of the Act may be included in a notice of assessment.
- e) If a protest to a notice of assessment is not filed within 60 days after such notice, such notice of assessment shall become final without the necessity of a final assessment being issued and shall be deemed to be a final assessment. If a distribution agent files a protest to a notice of assessment within 60 days after such notice, and the protest requests a hearing thereon, the Department shall give notice to the distribution agent of the time and place fixed for such hearing and shall hold a hearing in conformity with such provisions of the ROTA as are incorporated by reference by the Act, and pursuant thereto shall issue a final assessment to such distribution agent or to the legal representative of such person for the amount found to be due as a result of such hearing.
- f) In addition to the penalties provided for in the Act, any fee that is not paid when due shall bear interest at the rate provided for in Section 5 of the ROTA, incorporated by Section 35(c)(2) of the Act, from the date when such fee becomes past due until such fee is paid or a judgement therefor is obtained by the Department.